

Good morning ladies and gentlemen of the committee.

My name is Priscilla Bode. I worked for over a year for the Health Care Licensing Bureau in the Business Standards Division of the Department of Labor and Industry, and was Administrator for the Board of Funeral Service. I left that position in October last year.

I understand that the mission of this Interim Committee is to determine which licensing boards should be subject to the sunset rule, and am here today to give you my opinion on that issue.

It is my firm belief that the funeral industry in the State of Montana needs to be subject to licensing regulation for the following reasons.

The first responsibility of the funeral service industry is to provide compassionate and caring services to the families of people who pass away in our communities. Funeral service professionals must have the appropriate education and be capable of handling the physical, emotional and practical aspects of caring for people who die in our state, including providing service at all hours of the day and night and

consoling family members in a sensitive manner. This is a difficult and stressful business and we should honor the professionals who take on this task, particularly because many families are not prepared to address the issues that arise when a loved one passes away, whether unexpectedly or even in a situation where it is anticipated.

Being very familiar with the statutes, and there are several, which regulate the funeral profession, including the Funeral Rule of the Federal Trade Commission, and equally knowledgeable of the Administrative Rules which have been written to reflect statutory requirements, I understand the problems that the industry in Montana is facing.

It is a fact that 37-19 MCA, the statute regulating the funeral industry in Montana, is outdated and poorly drafted. The industry has changed dramatically in that the proportion of cremation to traditional funerals has increased every year, and the statute has not been amended to reflect that change. The Board of Funeral Service has a disproportionate number of mortician members and the cremation industry is poorly represented.

In addition, the Administrative Rules have been sorely neglected over the years.

In fact the Chair of the Board was upset when I was hired for the position of Administrator in the summer of 2010 because in the previous seven years there had been five Administrators and three staff Attorneys. With such a high turnover in staff the Board felt that it was not receiving the appropriate level of support from the Health Care Licensing Bureau on the administrative level. I am sorry that because of my age I retired after a little more than a year in that position, and I regret that I was unable to remain to assist the Board in getting their affairs in order. The good news is that the present Board Attorney has been working diligently to revise the Administrative Rules and I am hoping that they will be finalized and published by the Secretary of State in the very near future. This process should clarify the rights and responsibilities of the licensed professionals.

As Board Administrator I reviewed the financial wellbeing of the Board. As this Committee is aware, the Health Care Licensing Bureau is fully funded by licensing fees, and therefore there is no burden placed on the State's general fund. It became clear that the financial status of the Board was

deteriorating, and in fact had been for some years. Previous Administrators had either ignored or been oblivious to this fact and I was given the sorry task of figuring out how to enhance revenues to cover the increasing annual shortfall in the budget. This would necessarily require raising application and renewal fees.

To give you some perspective. This state has many small communities which rely on their local funeral homes to provide necessary services for their families. Every small funeral home is subject to annual renewal fees for a mortuary, a crematory, a mortician, a crematory operator and possibly one or more employees who are required to be licensed and the current renewal fees could be well in excess of \$1000 annually. Many of these small communities likely cannot support a full time mortician, and many of them have second occupations. It was a tragedy that a mortician up on the hi line lost his life in a crop dusting accident last year, but he could not support his family through his funeral home alone.

My projection for fee increases would have made it increasingly difficult for many of these business owners to cover the licensing costs so they would be able to continue providing services to their communities.

It became clear that two factors were responsible for this financial shortfall. Firstly the number of complaints filed against the Board, mostly because the Administrative Rules as presently written are vague enough that individuals can circumvent the rules. Secondly, the Board Attorney is devoting a considerable amount of time to revising the Rules since the previous Board Attorneys had not addressed the issue in a timely manner. This project will clearly be to the benefit of the Board and the public, but it's a bit like closing the stable door after the horses have bolted - straight to the Compliance Division. I have absolute confidence that when the Administrative Rules package has been completed the number of complaints will diminish to the point where the cost of addressing them will be minimal.

I also have no doubt that when this Rules package has been finalized the cost of attorney fees to the Board will be reduced and the Board's financial status will improve.

While I was employed as Administrator I did considerable research into the regulatory situation in different states. A case in point is Colorado which, due to financial restraints, abolished licensing of the funeral industry. It was a complete

disaster, and under pressure from the public they are in the process of reintroducing regulation, albeit on a gradual basis.

I do firmly believe that the Board of Funeral Service as a licensing entity provides a true benefit to the people of Montana. However, it is clear that 37-19 MCA needs to be amended to reflect the changing mores in our society relating to final disposition.

I would also like to express my concern that management of the Business Standards Division and the Health Care Licensing Bureau has been remiss in providing appropriate administrative services to the professionals who fund them with their licensing fees, and ignoring the needs of the individual licensees, at least with respect to this particular Board. Some of my predecessors as Board Administrators appeared to be so disinterested in their responsibilities as to be negligent.

I do believe that the Board of Funeral Service attempts to do its best for the people of Montana, although during my tenure I discovered an incidence where a licensee had clearly broken the law and the Board decided there should be no censure or license revocation even when it was clear a criminal act had

been committed. Therefore I understand why some members of the profession feel that the Board does not take appropriate action in instances such as this because the funeral industry is a very small community, albeit spread around a large state and deference is given to "friends". There are licensees who believe the Board should be abolished because of these incidences, but I don't believe this constitutes a reason to dismantle a clearly necessary regulatory authority. Maybe some further oversight of Board activities would be sufficient to allay the concerns of these licensees.

As a matter of disclosure, I am now employed by a local funeral business here in Helena.

Thank you for your time.